

01
02
03
04
05 UNITED STATES DISTRICT COURT
06 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

07 ROBERT BERGEN,) CASE NO.: C08-1442-RAJ
08)
08 Petitioner,)
09)
09 v.) ORDER TRANSFERRING
10) § 2254 PETITION
10 HENRY RICHARDS, Ph.D.,)
11)
11 Respondent.)
12 _____)


13 The Court, having reviewed petitioner's petition for a writ of habeas corpus pursuant to
14 28 U.S.C. § 2254, respondent's motion to dismiss or, in the alternative, to transfer the petition,
15 the Report and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate
16 Judge, any objections thereto, and the balance of the record, does hereby find and ORDER:

17 (1) The Court adopts the Report and Recommendation.

18 (2) This case is TRANSFERRED to the Ninth Circuit Court of Appeals, in the
19 interests of justice, pursuant to 28 U.S.C. § 1631 and Circuit Rule 22-3(a).
20 Petitioner is advised that this transfer does not of itself constitute compliance with
21 § 2244(b)(3) and Circuit Rule 22-3. He must still file a motion for leave to
22 proceed in the Ninth Circuit and make the showing required by § 2244(b)(2).

01 (3) The Clerk is directed to close this case and transfer all original documents to the
02 Ninth Circuit Court of Appeals. The Clerk is further directed to send a copy of
03 this Order to petitioner, to counsel for respondent, and to Judge Theiler.

04 DATED this 19th day of March, 2009.

05 
06 _____
07 The Honorable Richard A. Jones
08 United States District Judge
09
10
11
12
13
14
15
16
17
18
19
20
21
22